

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE SITAGLIPTIN PHOSPHATE	:	
(‘708 & ‘921) PATENT LITIGATION	:	MDL No. 19-2902-RGA
	:	
	:	C.A. Nos. 19-311-RGA
	:	19-312-RGA
	:	19-313-RGA
	:	19-314-RGA
	:	19-317-RGA
	:	19-318-RGA
	:	19-319-RGA
	:	19-347-RGA
	:	19-1489-RGA
	:	20-776-RGA

MEMORANDUM ORDER

Biocon filed an unopposed motion to redact portions of the transcript of a discovery dispute conference. (D.I. 237). I looked at the motion and the transcript and saw that Biocon proposed to redact a lot of the transcript.¹ I denied the motion, citing the most recent Third Circuit case on the subject, and noting (erroneously) that the motion was “unsupported by any statement under oath.” (D.I. 239). The motion cited numerous times to a two-page boilerplate declaration. I am not sure now whether I just mistakenly missed that or whether I meant to say, “unsupported by any sufficient statement under oath.”

In any event, Biocon has filed another unopposed motion, and somewhat modestly reduced its proposed redactions and modestly increased the robustness of its supporting statement under oath. (D.I. 258). It seems to me a pretty close call whether it is actually a secret for which company Biocon makes the sitagliptin API. I take it, however, that the exact

¹ It is never good when the first thing I see is that attorneys who are openly on the docket as representing certain parties have that relationship redacted.

formulation is a valuable secret. Those, essentially, are the two things the redactions, as numerous as they still are, are designed to obscure. Given that the underlying dispute was a discovery motion and that it involves a third party, I am satisfied that the redactions are appropriate under these circumstances.² Thus, I will separately grant the motion.

IT IS SO ORDERED this 21st day of October 2020.

/s/ Richard G. Andrews
United States District Judge

² Of course, if infringement is contested at trial, that will be a different matter.